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IN THE

Supreme Court of the United States

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MICHAEL RODA

OCTOBER TERM, 1979

NO. 79-1061

CHARLES L. MAEHREN et al.,
and JOHN R. CHURCH, et al.,
Petitioners,

v.

CITY OF SEATTLE, et al.,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE STATE OF WASHINGTON

PETITIONERS' REPLY MEMORANDUM

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The City of Seattle, in its opposing Brief, asserts that the Petition should be denied because of mootness. The cases are not moot. The City is pursuing a continuing practice of racial discrimination which the petitioners sought to enjoin and the petitioners remain victims of the racial discrimination practiced by the City.

None of the petitioners have been given relief in the form of back pay or retroactive

seniority and the respondents continue to pursue their policy of racial discrimination contrary to the City Carter.[1] Appropriate relief is well within the prayer of the pleadings. The relief asked for in the Church case is as follows:

WHEREFORE, Plaintiffs pray for judgment:

I.

Enjoining the defendants from certifying or employing any persons in positions in the Civil Service of the City of Seattle, except in the manner prescribed by the Charter of the City of Seattle.

II.

Declaring the actions of the defendants in certifying for appointment and in appointing Claude Harris to be wholly illegal and of no effect whatsoever.

III.

Requiring the defendants to make proper certification and appointment for the position for which the plaintiffs were examined.

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[1] It should be noted that the Black male who was selectively certified to the position of Lieutenant herein has since been selectively certified to the position of Captain. He placed No. 43 out of 56 persons in the content valid test for the position of Fire Captain. He was subsequently selectively certified over better qualified white males to the position of Captain.

IV.

Such other and further relief as may be just and equitable in the premises, including plaintiffs costs and disbursements and attorneys fees herein.

The relief prayed for in the Maehren case is as follows:

WHEREFORE, plaintiffs pray for judgment declaring said actions of the defendants to be wholly illegal and of no effect whatsoever, and that the defendants be enjoined from certifying any employees appointed to positions in the Civil Service of the City of Seattle except in the manner prescribed by Article XVI, Sections 8 and 9, of the City Charter, and defendants be required to make proper certifications for the positions for which the plaintiffs were examined, and that the Court grant such other and further relief as it may deem just and equitable in the premises, including plaintiffs' costs and disbursements herein.

As indicated in the Petition herein, the decision below is being used state wide as authority for wide-spread practices of racial discrimination in municipal employment practices in response to pressure from federal agencies to meet quotas referred to as goals.

The prayers for relief quoted above include remedies awarding lost pay, seniority, damages and attorney fees, as well as injunctions against future discrimination.

Such relief is consistent with the decision of this court construing Federal Rule of Civil Procedure 54(c) in Albermarle Paper Company v. Moody, 422 U.S. 405, 45 L. Ed. 2d 280, 95 S. Ct. 2362 (1975). The State of Washington in Rules for Superior Court, Civil Rule 54(c) has the identical language to that quoted in the Albemarle case at 422 U.S. 424 as follows:

> every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings.

Thus, even if the prayers of the petitioners quoted above had not asked for injunction of continued racial discriminatory practices and for such other relief as was just and equitable, as well as costs and attorney fees, appropriate remedies would be available. The parties did,

however, pray for such relief and the cases herein are not moot.

Respectfully submitted,

CARROLL, RINDAL, KENNEDY
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